

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2007-1187-MSW-E **TCEQ ID:** RN104159934 **CASE NO.:** 34349
RESPONDENT NAME: Custom Crushed Stone, Inc.

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input checked="" type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: Somerset Road Recycling Center, 9782 Somerset Road, San Antonio, Bexar County

TYPE OF OPERATION: Concrete, asphalt, steel, wood chip, and compost recycling

SMALL BUSINESS: ☒ Yes ☐ No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on December 27, 2007. No comments were received.

CONTACTS AND MAILING LIST:
TCEQ Attorney/SEP Coordinator: None
TCEQ Enforcement Coordinator: Mr. Clinton Sims, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-6933; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171
Respondent: Mr. Zachary Tausch, President, Custom Crushed Stone, Inc., 8845 Leslie Road, San Antonio, Texas 78254
 Mr. Lloyd Tausch, Treasurer, Custom Crushed Stone, Inc., 8845 Leslie Road, San Antonio, Texas 78254
Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: April 18, 2007</p> <p>Date of NOE Relating to this Case: May 23, 2007 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WASTE</p> <p>1) Failure to protect recyclable material from degradation, contamination, or loss of value as recyclable material. Specifically, large piles of brush/mulch were not contained, covered, or otherwise managed to protect them from degradation, contamination, or loss of value [30 TEX. ADMIN. CODE § 328.4(b)(3)(B)].</p> <p>2) Failure to submit to the TCEQ a written closure cost estimate for hiring a third party to close the Facility by disposition of all processed and unprocessed materials [30 TEX. ADMIN. CODE § 328.5(c)(1)].</p> <p>3) Failure to provide any documentation to show that during each subsequent six-month period, the amount of material that is recycled, or transferred to a different site for recycling, equals at least 50% by weight or volume of the material accumulated at the beginning of the period [30 TEX. ADMIN. CODE §§ 328.4(b)(3) and 328.5(f)(1)].</p>	<p>Total Assessed: \$10,000</p> <p>Total Deferred: \$2,000 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$8,000</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a) Within 30 days after the effective date of this Agreed Order:</p> <p>i. Contain, cover, or otherwise manage all recycled materials to protect them from degradation, contamination, or loss of value;</p> <p>ii. Provide a closure cost estimate;</p> <p>iii. Submit documentation demonstrating that at least 50% by weight or volume of the material accumulated at the Facility, for recycling is recycled or transferred to a different site for recycling; or</p> <p>iv. In lieu of a.i. through a.iii., remove all accumulated materials and dispose at an authorized facility.</p> <p>b) Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a.i. through a.iv. The certification shall be notarized by a State of Texas Notary Public.</p>

Additional ID No(s).: MSW Processing Permit No. 100035



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision May 25, 2007

TCEQ

DATES	Assigned	29-May-2007	Screening	31-Jul-2007	EPA Due	
	PCW	24-Jul-2007				

RESPONDENT/FACILITY INFORMATION

Respondent	Custom Crushed Stone, Inc.		
Reg. Ent. Ref. No.	RN104159934		
Facility/Site Region	13-San Antonio	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	34349	No. of Violations	3
Docket No.	2007-1187-MSW-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Enf. Coordinator	Mike Limos
Multi-Media		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$10,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 0% Enhancement **Subtotals 2, 3, & 7** \$0

Notes No change due to average performer classification.

Culpability No 0% Enhancement **Subtotal 4** \$0

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction **Subtotal 5** \$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes The Respondent does not meet the good faith criteria.

Subtotal 6 \$0

Total EB Amounts	\$345
Approx. Cost of Compliance	\$6,300

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$10,000

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment** \$0

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount \$10,000

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$10,000

DEFERRAL 20% Reduction **Adjustment** -\$2,000

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY \$8,000

Screening Date 31-Jul-2007

Docket No. 2007-1187-MSW-E

PCW

Respondent Custom Crushed Stone, Inc.

Policy Revision 2 (September 2002)

Case ID No. 34349

PCW Revision May 25, 2007

Reg. Ent. Reference No. RN104159934

Media [Statute] Municipal Solid Waste

Enf. Coordinator Mike Limos

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

No change due to average performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 31-Jul-2007

Docket No. 2007-1187-MSW-E

PCW

Respondent Custom Crushed Stone, Inc.

Policy Revision 2 (September 2002)

Case ID No. 34349

PCW Revision May 25, 2007

Reg. Ent. Reference No. RN104159934

Media [Statute] Municipal Solid Waste

Enf. Coordinator Mike Limos

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 328.4(b)(3)(B)

Violation Description

Failed to protect recyclable material from degradation, contamination, or loss of value as recyclable material, as documented during an investigation conducted on April 18, 2007. Specifically, large piles of brush/mulch were not contained, covered, or otherwise managed to protect them from degradation, contamination, or loss of value.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 25%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to a significant amount pollutants which would not exceed protective levels.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2

98 Number of violation days

mark only one
with an x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$5,000

Two quarterly events are recommended from the April 18, 2007 investigation to the July 31, 2007 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$291

Violation Final Penalty Total \$5,000

This violation Final Assessed Penalty (adjusted for limits) \$5,000

Economic Benefit Worksheet

Respondent: Custom Crushed Stone, Inc.
Case ID No.: 34349
Reg. Ent. Reference No.: RN104159934
Media: Municipal Solid Waste
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings	\$5,000	18-Apr-2007	15-Feb-2008	0.8	\$14	\$277	\$291
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to properly cover, contain or otherwise protect recyclable materials from degradation, contamination or loss of value calculated from the investigation date to the projected compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$291

Screening Date 31-Jul-2007

Docket No. 2007-1187-MSW-E

PCW

Respondent Custom Crushed Stone, Inc.

Policy Revision 2 (September 2002)

Case ID No. 34349

PCW Revision May 25, 2007

Reg. Ent. Reference No. RN104159934

Media [Statute] Municipal Solid Waste

Enf. Coordinator Mike Limos

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 328.5(c)(1)

Violation Description

Failed to submit to the TCEQ a written closure cost estimate for hiring a third party to close the Facility by disposition of all processed and unprocessed materials, as documented during an investigation conducted on April 18, 2007.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	X		

Percent 25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

98 Number of violation days

mark only one
with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$2,500

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$33

Violation Final Penalty Total \$2,500

This violation Final Assessed Penalty (adjusted for limits) \$2,500

Economic Benefit Worksheet

Respondent Custom Crushed Stone, Inc.
Case ID No. 34349
Reg. Ent. Reference No. RN104159934
Media Municipal Solid Waste
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<small>No commas or \$</small>							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$800	18-Apr-2007	15-Feb-2008	0.8	\$33	n/a	\$33

Notes for DELAYED costs

Estimated cost to prepare and submit a cost closure estimate. Date required is the date of the investigation. Final Date is the anticipated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$800

TOTAL

\$33

Screening Date 31-Jul-2007

Docket No. 2007-1187-MSW-E

PCW

Respondent Custom Crushed Stone, Inc.

Policy Revision 2 (September 2002)

Case ID No. 34349

PCW Revision May 25, 2007

Reg. Ent. Reference No. RN104159934

Media [Statute] Municipal Solid Waste

Enf. Coordinator Mike Limos

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code §§ 328.4(b)(3) and 328.5(f)(1)

Violation Description

Failed to provide any documentation to show that during each subsequent six-month period, the amount of material that is recycled, or transferred to a different site for recycling, equals at least 50% by weight or volume of the material accumulated at the beginning of the period, as documented during an investigation conducted on April 18, 2007.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

98 Number of violation days

mark only one
with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$2,500

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$21

Violation Final Penalty Total \$2,500

This violation Final Assessed Penalty (adjusted for limits) \$2,500

Economic Benefit Worksheet

Respondent: Custom Crushed Stone, Inc.
Case ID No.: 34349
Reg. Ent. Reference No.: RN104159934
Media: Municipal Solid Waste
Violation No.: 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<small>No commas or \$</small>							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$500	18-Apr-2007	15-Feb-2008	0.8	\$21	n/a	\$21
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to maintain records to document that at least 50% of accumulated material is recycled, or transferred to a different site for recycling, at the required rates calculated from the investigation date to the projected compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$21

Compliance History

Customer/Respondent/Owner-Operator:	CN601597735	Custom Crushed Stone, Inc.	Classification: AVERAGE	Rating: 1.88
Regulated Entity:	RN104159934	SOMERSET ROAD RECYCLING CENTER	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	MUNICIPAL SOLID WASTE DISPOSAL	PERMIT		100035
	MUNICIPAL SOLID WASTE PROCESSING	PERMIT		100035
Location:	9782 SOMERSET RD, SAN ANTONIO, TX 78211, BEXAR COUNTY		Rating Date: September 01 06	Repeat Violator: NO
TCEQ Region:	REGION 13 - SAN ANTONIO			
Date Compliance History Prepared:	August 01, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	August 01, 2002 to August 01, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Mike Limos	Phone:	(512) 239-5839	

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

- | | | |
|------------------------|---|-----|
| A. | Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government. | N/A |
| B. | Any criminal convictions of the state of Texas and the federal government. | N/A |
| C. | Chronic excessive emissions events. | N/A |
| D. | The approval dates of investigations. (CCEDS Inv. Track. No.) | N/A |
| E. | Written notices of violations (NOV). (CCEDS Inv. Track. No.) | |
| F. | Environmental audits. | N/A |
| G. | Type of environmental management systems (EMSs). | N/A |
| H. | Voluntary on-site compliance assessment dates. | N/A |
| I. | Participation in a voluntary pollution reduction program. | N/A |
| J. | Early compliance. | N/A |
| Sites Outside of Texas | | N/A |

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CUSTOM CRUSHED STONE, INC.
RN104159934**

§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-1187-MSW-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Custom Crushed Stone, Inc. ("CCSI") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and CCSI appear before the Commission and together stipulate that:

1. CCSI owns and operates a concrete, asphalt, steel, wood chip and compost recycling facility at 9782 Somerset Road in San Antonio, Bexar County, Texas (the "Facility").
2. The Facility involves the management of municipal solid waste ("MSW") as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. The Commission and CCSI agree that the Commission has jurisdiction to enter this Agreed Order, and that CCSI is subject to the Commission's jurisdiction.
4. CCSI received notice of the violations alleged in Section II ("Allegations") on or about May 28, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by CCSI of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Ten Thousand Dollars (\$10,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). CCSI has paid Eight Thousand Dollars (\$8,000) of the administrative penalty and Two Thousand Dollars (\$2,000) is deferred contingent upon CCSI's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If CCSI fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require CCSI to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and CCSI have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that CCSI has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, CCSI is alleged to have:

1. Failed to protect recyclable material from degradation, contamination, or loss of value as recyclable material, in violation of 30 TEX. ADMIN. CODE § 328.4(b)(3)(B), as documented during an investigation conducted on April 18, 2007. Specifically, large piles of brush/mulch were not contained, covered, or otherwise managed to protect them from degradation, contamination, or loss of value.
2. Failed to submit to the TCEQ a written closure cost estimate for hiring a third party to close the Facility by disposition of all processed and unprocessed materials, in violation of 30 TEX. ADMIN. CODE § 328.5(c)(1), as documented during an investigation conducted on April 18, 2007.
3. Failed to provide any documentation to show that during each subsequent six-month period, the amount of material that is recycled, or transferred to a different site for recycling, equals at least 50% by weight or volume of the material accumulated at the beginning of the period, in violation of 30 TEX. ADMIN. CODE §§ 328.4(b)(3) and 328.5(f)(1), as documented during an investigation conducted on April 18, 2007.

III. DENIALS

CCSI generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that CCSI pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and CCSI's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Custom Crushed Stone, Inc., Docket No. 2007-1187-MSW-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that CCSI shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order:

- i. Contain, cover, or otherwise manage all recycled materials to protect them from degradation, contamination, or loss of value, in accordance with 30 TEX. ADMIN. CODE § 328.4(b)(3)(B);
- ii. Provide a closure cost estimate, in accordance with 30 TEX. ADMIN. CODE § 328.5(c);
- iii. Submit documentation demonstrating that at least 50% by weight or volume of the material accumulated at the Facility for recycling is recycled or transferred to a different site for recycling, in accordance with 30 TEX. ADMIN. CODE §§ 328.4(b)(3) and 328.5(f)(1); or
- iv. In lieu of 2.a.i. through 2.a.iii., remove all accumulated materials and dispose at an authorized facility.

Submit documentation for 2.a.ii. and 2.a.iii. to:

Municipal Solid Waste Permits Section, MC 124
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

1. Introduction

The purpose of this report is to provide a detailed analysis of the data collected during the experiment.

2. Methodology

The experiment was conducted using a standard procedure. The data was collected over a period of 10 days. The results were then analyzed using statistical methods. The data was then plotted on a graph to show the relationship between the variables.

3. Results

The results of the experiment show that there is a significant correlation between the variables. The data indicates that the relationship is positive and linear.

The data was then plotted on a graph to show the relationship between the variables.

4. Discussion

The results of the experiment are consistent with the hypothesis. The data indicates that the relationship is positive and linear.

The data was then plotted on a graph to show the relationship between the variables.

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The data was then plotted on a graph to show the relationship between the variables.

5. Conclusion

The results of the experiment are consistent with the hypothesis. The data indicates that the relationship is positive and linear.

- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i. through 2.a.iv. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Waste Section Manager
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

3. The provisions of this Agreed Order shall apply to and be binding upon CCSI. CCSI is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If CCSI fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, CCSI's failure to comply is not a violation of this Agreed Order. CCSI shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. CCSI shall notify the Executive Director within seven days after CCSI becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by CCSI shall be made in writing to the Executive Director. Extensions are not effective until CCSI receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against CCSI in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to CCSI, or three days after the date on which the Commission mails notice of the Order to CCSI, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

The following is a list of the books in the collection of the University of Chicago Library, which are now in the possession of the University of Chicago Press. The books are listed in the order in which they were received by the University of Chicago Press, and are arranged in alphabetical order of the author's name. The books are listed in the order in which they were received by the University of Chicago Press, and are arranged in alphabetical order of the author's name.

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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John S. Soler

For the Executive Director

12/10/07

Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Lloyd Tausch

Signature

10-18-07

Date

LLOYD TAUSCH

Name (Printed or typed)
Authorized Representative of
Custom Crushed Stone, Inc.

Tres.

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

